

Ms Rachel Brophy Rachel.Brophy@cumbria.gov.uk
Planning Officer
Cumbria County Council
Economy, Culture and Environment
County Offices
KENDAL
Cumbria LA9 4RQ



www.slacc.org.uk

12th March 2019

Dear Ms Brophy,

Re: Application ref 4/17/9007 by West Cumbria Mining Ltd for Development of an existing surface mine entrance for a new underground metallurgical coal mine and associated surface development including: [...] at the former Marchon site (High Road) Whitehaven [...] off Mirehouse Road, Pow Beck valley and area from, Marchon Site to St Bees Coast

This letter adds to SLACctt's 18/2/18 letter of objection to WCM's proposal, which is appended here. Both letters are also separately online, at bit.ly/SLACcttNOtoCOAL1 and bit.ly/SLACcttNOtoCOAL2 in date order.

Key additions to 18/2/18 letter: High Court judgement on NPPF and its implications, IPCC SR1.5, WCM emissions and consequential climate deaths, critique of WCM shipping emissions claims.

1. A High Court judgement last week has in effect made illegal a paragraph in the 'Oil, gas and coal exploration and extraction' section of the 2018 NPPF, which has important implications as regards how climate change impacts should be considered as a planning consideration at local government level. We at SLACctt most strongly advise that **this ruling and their implications are given urgent and priority attention by the Planning Officers** involved in producing their report to the Development Control Committee on WCM's coal mine application.
2. The High Court Judge ruled on 6th March that the Government was acting illegally to ignore recent scientific papers on climate science and fossil fuel extraction, when it copied across a 2015 Written Ministerial Statement into Paragraph **209a** of the **2018 Revised NPPF**, despite having received a report showing that the 2015 WMS was not scientifically valid. Although Paragraph 209a concerns onshore oil and gas extraction, nonetheless the High Court ruling has wider implications as regards all 'Oil, gas and coal exploration and extraction' in chapter 17 on minerals, including Paragraph 211 on coal, and also on government planning policies in general – where fossil fuels and climate change are involved.
3. Put simply, the ruling implies more widely that other paragraphs in the NPPF, and the wider planning structure put in place by central government where it concerns fossil fuels, need to be re-examined and updated with regards recent additions to climate science. The judge also appeared to accept that **it is valid for campaigners and local government to treat climate impacts as a planning consideration at a local level** (instead of leaving this consideration to central government policy under pressure from above). These 2 points are of vital relevance to WCM's very high carbon application.
4. It is essential for CumbriaCC to look ahead at such implications regarding future inevitable changes in policy including to the NPPF, to avoid decisions that result in future stranded assets (If WCM's project is wrongly given the go-ahead, it will have to be closed down in a few years).

How does this apply to coal, WCM and CumbriaCC?

5. 2018 Revised NPPF: Quotes from p.61:

Oil, gas and coal exploration and extraction

209. Minerals planning authorities should:

a) recognise the benefits of on-shore oil and gas development, including unconventional hydrocarbons, for the security of energy supplies and supporting the transition to a low-carbon economy; and put in place policies to facilitate their exploration and extraction;

...

211. Planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).

6. So 209.a is now illegal (or at least – the process that put it there). We reckon this should apply in a wider sense also to 211 – which persists with loop-holes for the most climate-damaging (and health-damaging) big fossil fuel. 211 should have banned all coal mining. For advocates of metallurgical coal aka coking coal being an exception - there is no carbon budget scope now for any new coking coal mines in the UK.

7. We have known for years that the NPPF does not accord with climate science as regards the emissions reductions required, and the 2018 Revised NPPF failed to plug the loopholes (Ref: bit.ly/growth-cc-nppf). Furthermore, legislation including even the 2008 Climate Change Act, failed to plug the other over-used loophole that allows fossil fuel advocates (including the UK government) to frequently claim “climate benefits”, or “climate savings”, for fossil fuel projects by confining attention to just UK territorial emissions (as shown by Paragraph 209a), and ignoring additions to global emissions. Claims of “displacing” possibly higher carbon imports actually mean adding to global emissions if the displaced fuel is burnt abroad. Such claims – if they are to comply with climate science, should be considered invalid if they fail also to apply to *global* emissions (to stop the hypocrisy of “gaming the [international carbon-accounting] system”). WCM provides an example:*

* 8. The “**climate savings**” from shipping coal that WCM wishes to divert us to, are only **about 1%** of the size of its combustion emissions, and are only realizable as regards global emissions reductions if another nation – WCM points to the US – is willing enough to leave in the ground at least 99% of the same quantity of coal that WCM wishes to extract. We doubt if the US would oblige by even 1%!
WCM would be adding its coal and all associated emissions to the global total without any mechanism to ensure any replacement of other coal sources. Increased supply would have an influence towards lowering the global price of coking coal, which would have a detrimental influence on the economics of lower carbon methods of producing steel such as using renewable-powered electric arc with steel from recycling, or new innovative methods under development for iron ore.

My spreadsheet calculations are or soon will be online here: www.bit.ly/SLACttNOtoCOAL5

9. These loopholes have kept the door open to Banks Group to pursue new open-cast mining applications, and WCM the present project. All these coal projects are incompatible with the UK being on track for the 2015 Paris temperature goals, and even more so for keeping below +1.5 degrees, the latter now requiring the world to halve emissions by 2030, which for wealthy countries means the UK being carbon net zero by 2030.

10. Very obviously, the **8 million tonnes of CO₂ per year** that WCM coal would emit if combusted, can in no way fit with such a rapid and immediate emissions reduction requirement, and that's *before* adding the significant within-UK upstream emissions from the project, and other GHGs such as methane. Such emissions would be very high in relation to Cumbria's carbon budget. The emissions would undermine the possibility of Cumbria meeting a 1.5 degrees emissions reduction path, i.e. of reaching net zero carbon by 2030, and thus the aim for Cumbria County Council to declare a Climate Emergency to assist putting those targets in place. Also as Laurie Michaelis points out: "If Cumbria County Council knowingly allows this mine to be developed, it bears at least a share of moral responsibility for those deaths and may in the future bear legal responsibility."

11. **Climate-related deaths equivalent to WCM carbon emissions**

I have calculated from WCM production figures that the **combustion emissions** from the **133 million tonnes of coal** they hope to extract over 50 years to be **400 million tonnes CO₂e**

Both Laurie Michaelis and SLACtT (myself) have separately calculated climate deaths from a subset of climate health impacts (from a WHO report) and we produced figures of similar magnitude of **thousands of deaths** from the subset category alone. It would be significantly higher if other categories of coal-products-related deaths are added. I have calculated a minimum of 1 climate death per year in the subset category from 1 year of WCM emissions. 50×100 gives a minimum of around 5,000+ deaths over 100 years from 50 years mining, which relates to over ten deaths per job. A more-than linear relationship (which is more likely according to LM), could hugely amplify these figures (NB: see LM's submissions for details as well as what they mean and imply).

This means that Officers writing the report, and Committee members making the final decision – will be deciding the fate of many thousands of lives – and would need to use their own ethical and moral judgements. The High Court ruling means that an equivalent of "just following orders" (which I have seen too much in hearings by other committees) would have even less ethical weight now than before the ruling. We must no longer discount or externalize impacts outside of application localities in space and over time.

My spreadsheet calculations for emissions and deaths are, or soon will be, online here: www.bit.ly/SLACtTNOtoCOAL4

12. SLACtT thus recommends that CumbriaCC now has a legal precedent as well as an ethical and moral duty to regard Paragraph 211 as legally suspect, and in urgent need of updating to accord with up-to-date climate science. This would mean looking forward to how policy including the NPPF will have to change in the future, and assuming that there should be no more coal mining in the UK. Cumbria CC should take into account the following:

13. On 2 May the **Committee on Climate Change (CCCuk)** will publish its "Report: Advice on the UK's long-term climate change targets: In light of the Paris Agreement, and the IPCC's recent special report on global warming of 1.5°C, the Committee on Climate Change will provide new advice to the Government and the devolved administrations on the UK's long-term climate change targets." If this report takes care to avoid loopholes or ambiguities, and has regard for UK impacts on global as well as UK territorial emissions, then it is likely to state or imply that the UK must stop mining for coal, and urge other changes to the NPPF and planning. Please anticipate this.

14. The CCCuk informed Government that its policies are not on track for meeting UK's carbon budgets over this coming decade. These budgets are to meet the "at least 80% of 1990 levels by 2050" emissions reduction target of the 2008 Climate Change Act. It is important to realize that climate scientists now agree that the "80% by 2050" target is now inadequate to meet its original target of +2 degrees or ["a little above 2 degrees"](#). This means that current government policies head not just

slightly above 2 degrees, but a lot above 2 degrees, which means that big changes in policies will have to urgently be implemented – and should include the NPPF.

15. The temperature goals of 2015 The Paris Agreement are to keep “the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels”. Government emission reduction policies are thus totally inadequate for the goals the UK signed up to. Furthermore – CCCuk’s remit enshrined in the 2008CCA have yet to be both updated to comply with the Paris temperature goals. Ref:

<https://henryadamsblog.wordpress.com/2018/07/02/how-the-ccc-is-not-paris-compliant/>

16. The **IPCC’s Special Report for 1.5 degrees** has shown much more clearly, by assessing the climate impacts at 1.5 degrees and 2 degrees in comparison, that the impacts of 1.5 degrees are bad enough, that 2 degrees is much worse than 1.5, and that the 2 degrees target is now considered much worse than thought in the last decade (except by low-lying/island nations), and that the 1.5 degrees target should be the one to aim for rather than 2 degrees. Yet UK policies are still nearer +3 degrees than 1.5.

17. To stay below 1.5 degrees we need to do more than just greatly change UK policies, and I’ve summarized and collated relevant studies and their implications here: www.bit.ly/growth-cc and www.bit.ly/growth-cc-nppf (on behalf of SLACtt. Main target readers: local government officers and cllrs).

18. Furthermore, a significant number of climate scientists reckon IPCC’s SR1.5 is over-conservative, gives inadequate consideration of potential climate tipping points in its summary report, and that 1.5 degrees may be exceeded by 2030.

19. I hope by now you are fully convinced that Paragraph 211 should be regarded as incompatible with UK’s climate commitments, and that WCM’s application can be rejected on climate grounds alone (as well as on other important issues summarized by FoE and other groups).

20. It is heartening to see that Councillors used climate impacts as a planning consideration against the high emissions application by IGas at Ellesmere Port, and climate scientist Professor Kevin Anderson gave evidence on the GHG impact: <https://drillordrop.com/2019/01/22/live-news-updates-day-5-of-inquiry-into-igas-test-plans-for-ellesmere-port-well/> Fossil fuel applications must be challenged. The case for doing so is strong, and is now helped by the High Court precedent for challenging the NPPF.

21. As to priorities: It is important to view "jobs and growth" as what is possible *within* a framework of climate and environment – without going beyond ‘planetary boundaries’ (Kate Raworth 2017 ‘Doughnut Economics’). Acting on climate will require many jobs (e.g. house insulation).

22. CONCLUDING RECOMMENDATIONS

In light of the above, SLACtt most strongly recommends that CumbriaCC does not shy from making climate impacts a key planning consideration, and to incorporate up-to-date climate science and its implications in both the Planning Officers report for the Committee and the Councillor members’ reasons for the final decision. The pro-fossil parts of both NPPF and applications should be challenged.

Yours sincerely,



Chris Rowley

/ -

Dr Henry Adams on behalf of SLACctt

Chris Rowley – *Trustee on behalf of Chair and trustees of slacctt*

Home phone: 01539 722158

Mobile: 07421 309453

55 Hayclose Crescent, Kendal LA9 7NT

Email: henryadams@dragonfly1.plus.com

Email: slaclimatechange@googlemail.com

The above includes the first author's interpretation of how the Judge's High Court ruling *should* be regarded – in a way that looks forward in the direction to future such legal steps and policy changes to hopefully follow climate science (and hopefully not too far behind). I have appended copies of write-ups by Leigh Day and others below – so that you can form your own interpretation, which I hope will view the direction of travel that law and planning will have to take to catch up with climate science – and how this will apply to long-term high carbon applications (like that by WCM) that could if not stopped, become stranded assets.

References

I can provide further references for above statements if requested henryadams@dragonfly1.plus.com

I have appended a copy of SLACctt's first submission to CumbriaCC objecting to WCM's application.

I most strongly recommend everyone reads the objection letters by Laurie Michaelis – who has had much experience in climate science, and by Maggie Mason – who has had years of very relevant experience in planning. I also recommend as regards climate impacts letters by FoE and Stuart Parkinson (Director of Scientists for Global Responsibility).

6mar19 **Government's fracking policy ruled unlawful** – Leigh Day

The High Court has today ruled that key elements of the government's national fracking policy are unlawful.

<https://www.leighday.co.uk/News/2019/March-2019/Governments-fracking-policy-ruled-unlawful>

6mar29 **TALK FRACKING WIN COURT CASE AS GOVERNMENT'S FRACKING PLANNING POLICY IS DECLARED UNLAWFUL** - Claire Stephenson – Talk Fracking

<http://www.talkfracking.org/slider-3/talk-fracking-win-fracking-court-case-against-goverment/>

2018 **ECONOMIC GROWTH and CLIMATE CHANGE** – annex re NPPF

The 2018 revised NPPF and the planning system in relation to 'economic growth' and climate change

- Dr Henry Adams – draft towards a several-document potential SLACctt publication, now online at

www.bit.ly/growth-cc-nppf

6mar19 **Breaking: Campaigners win court challenge over government support for fracking** - **RUTH**

HAYHURST <https://drillordrop.com/2019/03/06/breaking-campaigners-win-court-challenge-over-government-support-for-fracking/>

6mar19 **High court rules government's fracking guidelines 'unlawful'** - Court finds government failed to consider scientific evidence against fracking – Fiona Harvey, Environment Correspondent

<https://www.theguardian.com/environment/2019/mar/06/high-court-rules-governments-fracking-guidelines-unlawful>

6mar19 **Government fracking policy declared unlawful by High Court**

'It is clear what the government must now do, namely hold a full review of its policy support for fracking' - [Josh Gabbatiss](https://www.independent.co.uk/news/uk/home-news/fracking-policy-high-court-ruling-government-unlawful-housing-energy-a8810101.html) Science Correspondent @josh_gabbatiss <https://www.independent.co.uk/news/uk/home-news/fracking-policy-high-court-ruling-government-unlawful-housing-energy-a8810101.html>

6mar19 **Fracking: Government guidance 'unlawful' rules High Court** - By Dulcie LeeBBC News <https://www.bbc.co.uk/news/science-environment-47472732>

BBC Northwest Tonight: High Court decision on planning rules for fracking <https://www.youtube.com/watch?v=AP1mzUOx1fE>

Kate Raworth (2017) 'Doughnut Economics' (book) – summary re climate in www.bit.ly/growth-cc

=====

Some of the above references in more detail

Copies of text, with especially relevant points highlighted:

6mar19 **Government's fracking policy ruled unlawful** – Leigh Day

The High Court has today ruled that key elements of the government's national fracking policy are unlawful. <https://www.leighday.co.uk/News/2019/March-2019/Governments-fracking-policy-ruled-unlawful>

Environmental campaigning group [Talk Fracking](http://TalkFracking.org), represented by Leigh Day, brought a judicial review challenge of the government's National Planning Policy Framework (NPPF), specifically the legality of adopting Paragraph 209a of the revised NPPF by the Secretary of State for Housing Communities and Local Government. The judicial review was heard in the High Court on 19 and 20 December 2018.

The legal case, brought by claimant Claire Stephenson on behalf of the group, argued that adopting Paragraph 209a was unlawful on the grounds that the government failed to take into account scientific developments which call into question the "low carbon" claims put forward in support of fracking and failed to carry out a lawful public consultation on the revision of the policy. [Both of these grounds were found to have been made out by the High Court.](http://www.leighday.co.uk/News/2019/March-2019/Governments-fracking-policy-ruled-unlawful)

Whereas a number of previous legal challenges have sought to overturn individual planning decisions relating to fracking sites, this case relates to the government's national policy on fracking. [Talk Fracking argued that the recent revision of this policy instructs local councils that fracking is beneficial in tackling climate change, contrary to scientific evidence.](http://www.leighday.co.uk/News/2019/March-2019/Governments-fracking-policy-ruled-unlawful) A Written Ministerial Statement in 2015 made similar claims, and it is argued that the incorporation of that statement into the NPPF ignored key factors that have emerged since, such as a greater scientific recognition of the climate change impact of methane emissions released as a result of fracking.

In reaching his conclusions, the Judge stated:

"67. What appears clear on the evidence is that the material from Talk Fracking, and in particular their scientific evidence as described in their consultation response, was never in fact considered relevant or taken into account, although...this material was relevant to the decision which was advertised, which included the substance and merits of the policy. On this basis it clearly was obviously material on the basis that it was capable of having a direct bearing upon a key element of the evidence base for the proposed policy and its relationship to climate change effects. As is clear from what is set out above, on the particular facts of this case the MacKay and Stone Report was an important piece of evidence justifying the validity of the policy in the 2015 WMS, and the need to avoid adverse consequences for climate change were an important aspect of whether or not to adopt the policy."

The Parties will now make arguments to the Court about what the Government must do as a result of the ruling.

Talk Fracking also argued in their legal case that the decision to adopt Paragraph 209a was unlawful because the government failed to carry out a Strategic Environmental Assessment (SEA) and that changing the NPPF failed to

give effect to tests set out by the Committee on Climate Change. Both of these grounds were dismissed by the High Court. However, in doing so, the Judge accepted that campaigners are entitled to raise climate change objections when local decisions about fracking are made, and councils will have to resolve those issues.

Claire Stephenson, who brought the claim on behalf of Talk Fracking, said:

“We are delighted that the court has agreed in part with our arguments that the government’s policy on fracking is unlawful. The government have continually sought to ignore public opinion on fracking, despite the overwhelming opposition on a national level. The lack of public consultation and the unbiased support for an industry, without any substantial underlying evidence, has been a cause for concern. The additional acknowledgment from the Judge, that climate change is a valid concern for campaigners and councils facing fracking planning applications, is a big win.”

Joe Corre, founder of Talk Fracking, said:

“It’s fantastic news to be victorious this morning. I’m very pleased that the Court has clarified both that the Government has behaved irresponsibly and recklessly with our democratic rulebook. Their pretend consultation was a farce. This has now been exposed by us taking them to the Royal Courts of Justice. It has now also become clear, with guidance from the Court, that objections to fracking on the basis of its climate change impacts must be considered at a local planning level”.

[Rowan Smith](#), solicitor from Leigh Day representing Talk Fracking, said:

“What is clear from this judgment is that the Government has to keep climate change science under review when formulating fracking policies in an open and transparent way. The 2015 statement that fracking supports a low-carbon economy was never consulted upon, and the Judge was critical of the way the Government, during last year’s consultation exercise, tried to shoehorn that statement into national policy whilst brushing off public objections to the basis for doing so. It is clear what the Government must now do, namely hold a full review of its policy support for fracking, after a meaningful public consultation and properly considering the scientific developments Talk Fracking presented and all other related material.”

Information was correct at time of publishing. See [terms and conditions](#) for further details.

6mar29 TALK FRACKING WIN COURT CASE AS GOVERNMENT’S FRACKING PLANNING POLICY IS DECLARED UNLAWFUL - Claire Stephenson – Talk Fracking

<http://www.talkfracking.org/slider-3/talk-fracking-win-fracking-court-case-against-government/>

Talk Fracking, represented by Leigh Day, was victorious today over their challenge against the government’s adoption of out-of-date and flawed scientific evidence into its fracking planning policy.

This morning, in the Royal Court of Justice, Mr Justice Dove, announced that Talk Fracking had succeeded in its claim against the government, after allowing a judicial review in the case over the climate impacts of shale gas developments. This was heard on the 19 and 20 December 2018.

Talk Fracking argued that the government had acted unlawfully by adopting Paragraph 209a of the 2015 Written Ministerial Statement into a revised version of the National Planning Policy Framework (NPPF), published in July 2018, without first reviewing new scientific data in a transparent manner.

New evidence published since 2015 completely debunks the government’s claim that fracking has a lower carbon footprint than imported liquid natural gas (LNG). Instead, scientific evidence has suggested that fracking exacerbates climate change.

The [Mobbs Report](#), commissioned by Talk Fracking, exposed many of the findings of the government’s keystone *Mackay-Stone* report. None of the evidence outlined in the *Mobbs Report* was considered before publishing the revised version of the NPPF in July 2018.

Whitehall’s Fracking Science Failure: How the Government Has Misled Parliament and the Public on the Climate Change Impacts of Shale Oil and Gas Development in Britain, or the *Mobbs Report* as it is known, was commissioned in 2017 and written by Paul Mobbs.

According to the report, fracking is not a “bridge” to a low-carbon energy future as the government have misled the public to believe. The *Mackay-Stone Report* is a rusty holding pin that the government and industry have incorrectly relied upon to influence planning policy and party support for fracking since 2013. The *Mackay-Stone Report* said fracking would help the UK transition to a renewable energy future whilst helping meet climate change targets. However, the *Mobbs Report* showed that fracking in the UK would mean missing obligations for the Paris Climate Agreement, whilst also contradicting the aims of The Climate Change Act (2008).

The *Mobbs Report* concluded that:

“Mackay-Stone Report must be withdrawn, and a moratorium implemented on all ‘fracking’ operations, until we can state the impacts with certainty.”

In reaching his conclusions, Mr Justice Dove stated:

“What appears clear on the evidence is that the material from Talk Fracking, and in particular their scientific evidence as described in their consultation response, was never in fact considered relevant or taken into account, although...this material was relevant to the decision which was advertised, which included the substance and merits of the policy.

“On this basis it clearly was obviously material on the basis that it was capable of having a direct bearing upon a key element of the evidence base for the proposed policy and its relationship to climate change effects.

“As is clear...the MacKay and Stone Report was an important piece of evidence justifying the validity of the policy in the 2015 WMS, and the need to avoid adverse consequences for climate change were an important aspect of whether or not to adopt the policy.”

He further stated:

“The consultation on the draft revised Framework 204a was so flawed in its design and processes as to be unlawful.” [for 204a now read 209a – latter as in 2018 Revised NPPF – Henry Adams]

He said it breached the Sedley principles which set out the requirements for a lawful consultation exercise.

Judge Dove said evidence provided by Talk Fracking, including The Mobbs Report, was:

“Capable of having a direct bearing upon a key element of the evidence base for the proposed policy and its relationship to climate change effects.”

Joe Corr  , from Talk Fracking said:

“It’s fantastic news to be victorious this morning. I’m very pleased that the Court has confirmed that the government has behaved irresponsibly and recklessly with our democratic rulebook.

“Their consultation was a farce. Their Written Ministerial Statement claim that fracking is a bridge to low carbon economy is not based on scientific evidence. This has been exposed by us taking them to Court. It is also clear, with guidance from the Court, that climate change objections to fracking must be considered at a local planning level.”

During the initial hearing in December 2018, the government’s chief counsel, Rupert Warren QC, was forced to state that in fact, councils **could** reject fracking on climate change grounds. This was a key finding, because previously, during all planning applications, councils and development control committees have been specifically told they are unable to consider climate change as a factor due to it being a “matter for future policy.”

Claire Stephenson, who brought the claim on behalf of Talk Fracking said:

“The acknowledgement from the Judge, that climate change is a valid concern for campaigners and councils facing fracking planning applications, is a big win.”

Rowan Smith, solicitor from Leigh Day said:

“What is clear from this judgement is that the government has to keep climate change science under review when formulating fracking policies in an open and transparent way.”

“It is clear that the government has to hold a full review of its policy support for fracking, after a meaningful consultation and properly considering the scientific developments.”

The Judge said he will allow Talk Fracking and the government time to consider the implications of the ruling and to make further submissions.

Talk Fracking were represented by David Wolfe QC from Matrix Chambers, Peter Lockley from 11KBW, Jennifer Robinson from Doughty Street Chambers and Rowan Smith from Leigh-Day.

Meanwhile, in the Court of Appeal, three Judges have just finished hearing a case in which Joe Corr   from Talk Fracking is challenging a 2017 ruling where fracking company INEOS sought to prevent the right to protest against its fracking operations through applying a draconian injunction to ‘persons unknown’.

A judgement in this case is expected to be handed down in May 2019.

Featured image via [Flickr](#). March 6, 2019 [Claire Stephenson](#) in [Fracking News](#),

/ -

Ms Rachel Brophy Rachel.Brophy@cumbria.gov.uk
Planning Officer
Cumbria County Council
Economy, Culture and Environment
County Offices
KENDAL
Cumbria LA9 4RQ

www.slacc.org.uk

18th February 2018

Dear Ms Brophy,

Re: Application ref 4/17/9007 by West Cumbria Mining Ltd for Development of an existing surface mine entrance for a new underground metallurgical coal mine and associated surface development including: [...] at the former Marchon site (High Road) Whitehaven [...] off Mirehouse Road, Pow Beck valley and area from, Marchon Site to St Bees Coast

<https://cloud2.atrriumsoft.com/ePlanningCMB/loadFullDetails.do?apId=45792>

1. South Lakes Action on Climate Change *towards transition* (SLACt) objects to the above coal mining application because the quantity of greenhouse gases it will release over its projected years of operation would be totally incompatible with the urgent and steep reduction in carbon emissions that climate scientists state we will need to ensure, in order to have any good chance of meeting the temperature goals of the Paris Climate Agreement that the UK and almost all other nations have signed up to.

2. The temperature goals of The Paris Agreement are “holding the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels” [1]. To comply with meeting these goals this would mean leaving most of the known resources of fossil fuels in the ground [2], which for coal would mean an even greater proportion in the ground (as it has the highest emissions per unit energy released when burnt – twice that of fossil gas, and for the UK (as a developed country) this would mean as close as possible to zero (to ensure equity).

I will show below, that there is significant scope for reducing the use of coking coal for steel-making (and also carbon emissions) – and steps to implement these reductions are being taken in the UK right now.

3. On climate urgency - it must be borne in mind that climate scientists have shown that if our current rate of carbon emissions is maintained we have only (i) around a couple of decades left before the +1.5 degrees global average temperature becomes the damaging reality [3]:

24 • At the present rate of greenhouse gas emissions and global warming of 0.17°C (±0.07°C) per
25 decade, as assessed in the AR5, global mean temperatures would reach 1.5°C in the 2040s
26 (high confidence). (Figure SPM1) (1.2.2, 1.2.3)

(IPCC draft report on 1.5C) [3] <http://www.climatechangenews.com/2018/02/13/leaked-draft-summary-un-special-report-1-5c-climate-goal-full/>

and (ii) that our global carbon budget for +1.5 degrees would be used up in only about 3 years according to IPCC AR5 [4], and in up to around 2 decades according to the most optimistic best-case scenarios of more recent projections, but a co-author states: “if CO₂ emissions were to continue to

increase along current trends, even this new budget would be exhausted in less than 20 years 1.5°C" [5].

Some climate scientists have more pessimistic assessments for our carbon budget, for example Anderson and Broderick concluded that the EU countries have just 9 more years of carbon budget at current rate of burning to keep below +2 degrees [6]. (NB: EU/OECD countries have less to ensure equity).

I quote: "... In their latest paper, published in the February issue of *Nature Geoscience*, Dr Philip Goodwin from the University of Southampton and Professor Ric Williams from the University of Liverpool have projected that if immediate action isn't taken, the earth's global average temperature is likely to rise to 1.5°C above the period before the industrial revolution within the next 17-18 years, and to 2.0°C in 35-41 years respectively if the carbon emission rate remains at its present-day value. ..." [7]

Compare these predictions with WCM's hoped for life-span of the mine (20 to 50 years) – it overlaps after 20 years with decades when UK emissions need to be near to zero. And before that, with a decade or more when our reductions will have to be very steep indeed. What planet are WCM living on? Are they gambling that the UK government (and planning decisions) will continue to diverge from the required carbon reductions path?

4. The huge UK emissions gap: Unfortunately our central government policies and actions on climate, fossil fuels *and planning decisions* – are way out of compliance with the requirements that climate scientists state are essential for meeting the Paris temperature goals. Sadly too – this huge compliance gap has been shown also by local government planning officers in a number of recent cases relating to fossil fuel applications, in which the climate argument has been omitted or down-played, despite NPPF enabling climate as a planning consideration (NPPF section 10 e.g. para.93). [9]

Leaving climate consideration to central government to decide on in planning cases is leaving the decision to a government still *supporting* new investment in fossil fuels – in direct contradiction to the Agreement they've signed up to [10].

This chart shows just one example of many: (the trend should obviously be downwards!); and DIT SoS Liam Fox is currently promoting more UK fossil fuel investments abroad [10 or 11]

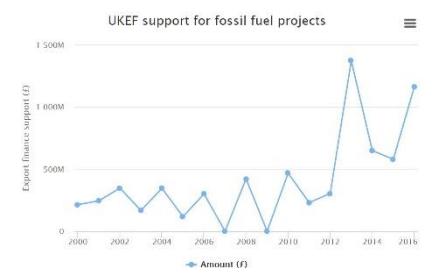
Also the Committee on Climate Change (CCC) expressed concern that the UK government's policies [e.g. Clean Growth Strategy] are insufficient to result in the carbon emissions reductions required by the Climate Change Act 2008 (to reduce emissions by at least 80% on 1990 levels by 2050) and by the Paris Agreement. 'The CCC said that "even if delivered in full", existing and new policies would fail to meet the interim goals set by the fourth and fifth carbon budgets "by a significant margin".'

[<https://www.desmog.uk/2018/01/16/government-climate-plan-has-significant-gaps-experts-warn>]

Compare the recent trends in the 2 charts to the right:

They are both going in the opposite direction that's required. Thus it is important that planning officers do **not** do what an SLDC councillor advised at a recent ctte meeting: that the climate considerations [of a proposed gas power station] should be left to central government. He might as well have said to the gas industry, or Shell and BP. There is no way in which our present central

The new figures were calculated using a confidential database that was accidentally disclosed to *Private Eye* earlier this year. The database provides the most comprehensive list to date of the deals entered into by UK Export Finance (UKEF).



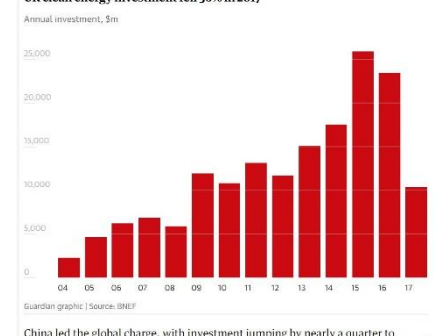
[eguardian.com/business/2018/jan/16/uk-green-energy-investment-plunges-after-policy-changes](https://www.theguardian.com/business/2018/jan/16/uk-green-energy-investment-plunges-after-policy-changes)

Alan Whitehead, shadow energy minister, said: "The government's green rhetoric is nothing more than empty promises. Their ideologically-driven policy lurches away from clean solar power and onshore wind has spooked investors."

"Whilst saying they have ambitions to be a green government their actions point in the opposite direction with renewables support slashed at the same time that fracking has been given the go ahead."

Caroline Lucas, Green party co-leader, said the UK figures were damning.

UK clean energy investment fell 56% in 2017



government (or bodies under their control) can be trusted to make planning decisions on fossil fuel investments that comply with the Climate Change Act or the Paris Agreement.

5. The above climate argument strongly rules out WCM's coal-mining application because of its huge carbon emissions [from FoE figures below], unless it can be shown indisputably that our need to add more coking coal to the global market for *new* steel production (as opposed to recycled steel – which does not need coal) is absolutely essential within the near future, and is tied with an equal reduction of carbon emissions by some means that would otherwise not happen (extremely unlikely!). But there is no case for such an exceptional need, as other consultees have pointed out [ref], and the use of coking coal in steel-making can be significantly reduced. Furthermore, if there was (hypothetically) such a need, the Whitehaven area would be the wrong location for mining coking coal – due to the many negative impacts and risks that other consultees have so strongly indicated. Finally there is no scope for achieving the huge compensatory carbon reduction.

6. Significant reductions in the requirement for coking coal in steel-making can be made

Appendix 1 explains this more fully with relevant quotes from references, and here we summarize:

- (i) by increasing the recycling rate of steel (from 30% in or before 2013 to a claimed potential 80% in the future), and thus increasing the percentage of steel made using the Electric Arc Furnace (EAF) – which does not need coke, and;
- (ii) decarbonizing the electricity used in the EAF, and thereby reducing the need for new steel from iron ore and carbon, and with regards the latter:
- (iii) increasing the use of waste wood instead of coking coal in countries where the strict rules required for regulating the latter are feasible to achieve.

But methods (i) and (ii) are by far the most climate-appropriate and feasible for the UK, and this month for example – an EAF was re-started in Rotherham by a company that is at least aware of the need to reduce burning of fossil-carbon in steel-making.

7. Summary conclusions from the above: SLACtt maintains that the over-riding climate argument is more than sufficient *in its own right*, i.e. without any other reason being needed, to rule out approving the application. The many other strong reasons against approving the application also include those that in our view look sufficient individually, but SLACC's main expertise and remit of relevance here is climate change, so we focus on that.

8. Friends of the Earth in their objections to WCM's proposals have thoroughly assessed the carbon emissions and climate impacts, and have concisely compared them with the requirements of the Paris Climate Agreement (2015) and the Climate Change Act (2008) - with associated statements by the Commission on Climate Change. SLACtt strongly endorses FoE's arguments for objection and have copied their climate section "Matter 1" below - partly because it is so well put across, and also so that we could focus on complementing it with additional contextual background:

For instance some readers may not realize just how large is the gap between what climate scientists strongly advise, and what our government policy and actions try to achieve (often the opposite!). Also there are those who may not realize the urgency and rapidity (over a short time frame) with which we must reduce emissions to have a 66% chance of avoiding exceeding +1.5 degrees.

Climate change impacts of WCM's proposals is one of four of a subset of FoE's "key concerns" that FoE list and describe in their letter of 3rd July 2017. FoE "... objects in principle to the above application for deep surface coal mining at the former Marchon Site ..."

Links:

Friends of the Earth 170710 (No PI) 4179007.pdf – dated 3rd July 2017

Friends of the Earth response to further information 171009 (NO PI).pdf – dated 9th October 2017

- Downloadable from <https://cloud2.atriumsoft.com/ePlanningCMB/tabPage3.jsp?apllid=45792>

Here we quote the section on climate change impacts from FoE's letter of 9th October 2017 to CumbriaCC:

Matter 1 – The need to consider the impact of the proposal on climate change

1. Despite being an application for coking/ metallurgical coal, the projected timeframe and quantity of extraction is at odds with the expectations of overarching climate change legislation – namely the Climate Change Act (2008) – which introduced legally binding targets to reduce the UK's greenhouse gas emissions by at least 80% by 2050 from 1990 levels, and the Paris Agreement.

2. Paragraph 93 of the National Planning Policy Framework (NPPF) reflects this legislative approach, stating that:

"Planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development"

3. Coal is described by the Committee on Climate Change as one of the fuels with the highest carbon intensity¹ and so its extraction and combustion must be minimised on a national and global scale in order to comply with current and future climate budgets². The application will not only drastically increase UK extraction (up to 2.1 million tonnes per annum at its expected peak), but is inextricably linked to the emissions impact of the burning of coal. Despite the intention to extract ore from the coal for steel making, rather than burning for energy generation, the development would conflict with the above legislative and national planning policy objectives to reduce greenhouse gas emissions.

1 Onshore Petroleum - The compatibility of UK onshore petroleum with meeting the UK's carbon budgets (Committee on Climate Change – March 2016)

4. It is clear that this is a very large mine, with a very long life span indeed. The application talks of a production life-span of 20-50 years, and a peak of 2.8 million tonnes a year. Assuming a 40 year life (following construction), and an average of 2 million tonnes a year, that is total production of 80 million tonnes, which will emit around 175 million tonnes of carbon dioxide. The level of emissions and proposed life-time of the mine is of major concern.

5. As stated above, the UK already has legally binding climate change targets under the Climate Change Act 2008 to reduce emissions by at least 80% on 1990 levels by 2050 – with 2050 within the lifetime of this mine. We note that the wording is "at least" – it is the intention of the Paris Agreement that all nations ratchet up their ambition over time, and the UK Government has said it will "continue to take a lead in global action on climate change"ⁱ. Post- Paris, the CCC has said that an equal distribution of the remaining Global Carbon Budget implies the UK "reaching net zero CO₂ emissions by 2033-55 for 2°C and 2026-28 for 1.5°C"ⁱⁱ. In this context, the UK can be expected to be not emitting carbon dioxide well within the lifetime of this mine, and in which case the proposal to dig for coal so far into the future is not compatible with the UK's climate change aims.

6. We would argue that the lifetime of the mine is therefore far too long and at the very least should be substantially reduced in order to ensure UK carbon budgets are met. We feel operational timescales being put forward are excessive and will prolong the climatic impacts linked to the mining, export and use of the coal. There has also been little to no consideration of methane release within the

documentation, which, as well as CO₂, is very large contributor to climate change and which (as a result of the mine's expected output and lifespan) requires further consideration.

===== END of quote from FoE's letter to CumbriaCC dated 9th October 2017 =====

Yours sincerely,



Chris Rowley

Dr Henry Adams on behalf of SLACctt

Chris Rowley – Acting Chair and Trustee of SLACctt

Dr Henry Adams

Email: slaclimatechange@googlemail.com

Home phone: 01539 722158

55 Hayclose Crescent, Kendal LA9 7NT

Email: henryadams@dragonfly1.plus.com

APPENDICES *(references for above are below the appendices)*

APPENDIX 1

Coking coal - how much is it “needed” for steel-making?

Are there lower-carbon-intensity alternative methods that don't require coking coal, or much less of it?

Here I quote relevant information from useful references:

CAT [Climate Action Tracker] Decarbonisation Series - climateactiontracker.org - October 2017:

MANUFACTURING A LOW-CARBON SOCIETY: HOW CAN WE REDUCE EMISSIONS FROM CEMENT AND STEEL?

http://climateactiontracker.org/assets/publications/DecarbSeries/Memo_Decarb_Industry_Final.pdf

... “Steel-related CO₂ emissions differ, depending on the production route used. There are two main manufacturing routes: the blast furnace basic oxygen furnace (BF-BOF) route and the electric arc furnace (EAF) route. Currently, the BF-BOF route is the dominant process, responsible for roughly 70% of steel production (World Steel Association 2015). This process mainly uses raw materials such as coal, iron ore and limestone. The raw material is converted to pig iron in the BF and subsequently made into steel in the BOF. The EAF route uses electricity to manufacture steel from predominantly scrap metal feedstock. Currently steel manufacturing using the EAF route represents close to a third of global steel production (World Steel Association 2016b). There is a substantial difference between the final energy intensity of these routes—the intensity of the EAF route is one-third of that of the BF-BOF route (WWF & Ecofys 2011). Of this intensity, about 95% comes from direct energy consumption (the use of primary energy in the production process without prior conversion or transformation) in the BF-BOF route, compared to about 50% for the EAF route (see Annex B).” ...

“Why is it so difficult to get emissions to near zero levels? In steelmaking, the most common method—the BF/BOF route—requires high carbon coke as fuel. Recycling of scrap steel through the EAF route avoids large amounts of emissions associated with fossil fuel combustion, but scrap availability is limited, which will constrain the shift towards a circular steel sector. ...”

Refers to e.g.: WWF & Ecofys, 2011. The Energy Report **THE ENERGY REPORT - 100% RENEWABLE ENERGY BY 2050** <https://www.ecofys.com/files/files/ecofys-wwf-2011-the-energy-report.pdf>

https://www.ecofys.com/files/files/wwf_ecofys_2011_theenergyreport_part1.pdf

1jan11 <https://www.worldwildlife.org/publications/the-energy-report>

CAN WE MAKE STEEL WITHOUT COAL? - Posted by [tjonescan](#) | 24 Apr 2013 | [Jeanette Fitzsimons](#),
<http://coalaction.org.nz/carbon-emissions/can-we-make-steel-without-coal>

"...coal (as coke) is a reducing agent, a source of energy to drive the process and a source of carbon to incorporate in the steel. Alternative processes need to meet all three functions. This is why you have to do more than just substitute a different energy source." ... "The current global rate of steel recycling is 30%, helping keep carbon emissions from pushing ever higher. Obviously there are limits to what can be collected for reuse but it should be possible to raise it to 80%, and would be if there was a sufficient price on carbon. Failure to price environmental damage leads to massive waste because collecting material for reuse is "just not worth it"." [The alternative to coal for making **new** steel (as cf recycled steel) that the article recommends is wood-waste. This source requires adhering to strict rules of e.g. of forestry management, land-use etc]. Thank you Marianne Birkby and others for this link. E.g. it's in: <https://sciscomedia.co.uk/keep-cumbrian-coal-in-the-hole/>

NB: The shift towards lower-carbon steel-recycling methods is already happening NOW in the UK:

16feb18 HRH The Prince of Wales reignites furnace - Liberty House Group

<http://www.libertyhousegroup.com/news/hrh-the-prince-of-wales-reignites-furnace/> "His Royal Highness, The Prince of Wales, will today (February 16th) mark a major milestone in the revival of Britain's steel industry when he formally reignites the iconic N-Furnace at Liberty Speciality Steels in Rotherham, South Yorkshire. ... the Alliance's vision for an industrial revival based on renewable energy, metal recycling and integration of the supply chain."

<http://www.libertyhousegroup.com/company/vision/> "GREENSTEEL" strategy:

"... **2. Invest in green energy, not green taxes.**

We have committed investment in generation of low-cost, low carbon power for use in steel recycling.

We will strive to reduce the impact of carbon taxes imposed on coal and gas based electricity to the manufacture steel (but not on coal for blast furnaces). We already hold investments in low cost power from hydro to bio fuel, and we are working to convert coal power plants to biomass and waste-to-energy stations. We will seek to grow our renewable energy portfolio to the advantage of our steel and engineering capabilities. ..."

REFERENCES

[1] pdf: <http://unfccc.int/resource/docs/2015/cop21/eng/l09.pdf> see near top of page 2:

"Emphasizing with serious concern the urgent need to address the significant gap between the aggregate effect of Parties' mitigation pledges in terms of global annual emissions of greenhouse gases by 2020 and aggregate emission pathways consistent with holding the increase in the global average temperature to well below 2 °C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5 °C"

Explanatory text (example): <https://theconversation.com/the-paris-climate-agreement-at-a-glance-50465>

[2] **Carbon Tracker** produced the report **Unburnable Carbon** with its "**carbon bubble**" concept back in July 2011, which stated "Only 20% of the total reserves can be burned unabated, leaving up to 80% of assets technically unburnable": <https://www.carbontracker.org/reports/carbon-bubble/>

But this report related to keeping below +2 degrees, whereas it is now accepted that we need to keep below 1.5 degrees if possible.

Budgets for 1.5 degrees are much smaller, and much harder to calculate with accuracy for scientific reasons – e.g. we are now around +1 degrees as a global average – but regions of the world vary in this respect – especially the arctic which has warmed up twice as fast as the global average, yet has a lower density of temperature recorders despite its wider climate influence.

[3] (IPCC draft report on 1.5C) <http://www.climatechangenews.com/2018/02/13/leaked-draft-summary-un-special-report-1-5c-climate-goal-full/>

[4] **Analysis: Just four years left of the 1.5C carbon budget [at start of 2017]** – Carbon Brief 5Apr17
<https://www.carbonbrief.org/analysis-four-years-left-one-point-five-carbon-budget> - based on IPCC 2014

synthesis report AR5 <http://www.ipcc.ch/report/ar5/syr/> with update for 2016 from Global Carbon Project on world budget: <http://cdiac.ess-dive.lbl.gov/GCP/> or, if this US link gets Trumped off-line, here is the pdf of Global Carbon Budget 2016: <https://www.earth-syst-sci-data.net/8/605/2016/essd-8-605-2016.pdf>

[5] Frame & Matthews (2017) <https://theconversation.com/keeping-global-warming-to-1-5-degrees-really-hard-but-not-impossible-84203> by 2 co-authors of Millar et al. 2017 <https://www.nature.com/articles/ngeo3031>

[6] via www.foeeurope.org/NoRoomForGas - '**Natural gas and climate change**' (pdf) 17oct17, released 7nov17, by Prof Kevin Anderson, University of Manchester & Uppsala University & Dr John Broderick, University of Manchester & Teesside University - commissioned by Friends of the Earth Europe. Quote from FoEE press release: "A new study, commissioned by Friends of the Earth Europe from the Tyndall Centre for Climate Change Research and the Teesside University, shows that EU countries can afford just nine more years of burning gas and other fossil fuels at the current rate before they will have exhausted their share of the earth's remaining carbon budget for maximum temperature rises of 2°C. Even with a managed phase-out, fossil fuels including natural gas, can have no substantial role beyond 2035 in an EU energy system compatible with 2°C. The findings are a stark reminder of the urgency with which Europe, as a region historically responsible for climate change, needs to shift to an energy system free from fossil fuels. Under the terms of the Paris climate agreement, the EU has committed to limit global warming to 'well below 2°C' and to 'pursue efforts to limit the temperature increase to 1.5°C'. [2] For 1.5°C, gas and other fossil fuels would need to be phased-out even faster." Professor Kevin Anderson, Tyndall Centre for Climate Change Research and the Teesside University said: "If the EU is to transform its energy system to align with the Paris temperature and equity commitments, it cannot continue with business as usual and must instead initiate a rapid phase out of all fossil fuels including natural gas. This needs to begin now and be complete within the coming two decades." There are several associated pdf documents linked to from the FoEE web-page.

[7] 22jan18 Global temperature targets will be missed within decades unless carbon emissions reversed https://www.eurekalert.org/pub_releases/2018-01/uos-gtt012218.php

[8] Peter Cox et al on Equilibrium Climate Sensitivity (ECS). I omitted this complex reference as it may confuse the reader if I try to summarize its implications! Ask Henry Adams if you want more information on this or other climate change science papers. My start on text summarizing this:

'Another study – by Peter Cox et al on Equilibrium Climate Sensitivity (ECS), shows that if we reach a point where we have doubled ..., which is likely to happen around if current emissions trajectory is continued, then chances of meeting 1.5 are ... [REF].'

[9] NPPF

[10] Why we can't trust central government on planning decisions re fossil fuels and climate:
Examples – a few of many (enough to fill a book!):

19apr17 **Revealed: UK provides billions in credit to fossil fuel industry despite clean energy pledge** – Lawrence Carter, Greenpeace Unearthed <https://unearthed.greenpeace.org/2017/04/19/uk-trade-billions-export-finance-fossil/>

11feb18 **A Huge New Oil Refinery in Oman is About to Get a Big Loan with Help From the UK Government**
By [Chloe Farand](https://www.desmog.uk/2018/02/09/huge-new-oil-refinery-oman-about-get-big-loan-through-uk-government) <https://www.desmog.uk/2018/02/09/huge-new-oil-refinery-oman-about-get-big-loan-through-uk-government>

"David Powell, environment lead for the think tank New Economics Foundation, denounced the inconsistency between the government's global climate commitments and its underwriting of finance for dirty energy projects abroad. "**Cognitive dissonance is at the heart of how the UK thinks about climate change**," he told DeSmog UK.

Andrew Scott, senior research fellow at the Overseas Development Institute (ODI), said the UKEF's potential new line of credit to the refinery would "effectively be a form of subsidy" to the fossil fuel industry. ..."

11jan18 “before the election, **oil bosses gave the Conservative party £390,000 in political donations.** .” - George Monbiot in response to May’s 25 year environment plan [my emphasis] – quoted from:
<https://www.theguardian.com/commentisfree/2018/jan/11/theresa-may-plastic-plan-economy-consume>